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ATTORNEYS AT LAW

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September 10, 2000

REC'D TN  
REGULATORY AUTH.

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OFFICE OF THE  
EXECUTIVE SECRETARY

Mr. K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0505

**VIA HAND DELIVERY**

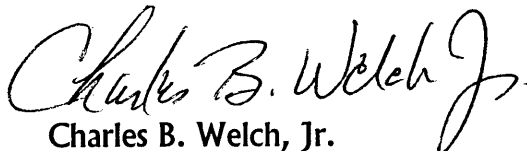
Re: **APPLICATION OF MEMPHIS NETWORK, LLC FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO PROVIDE INTRASTATE TELECOMMUNICATION SERVICES AND JOINT PETITION OF MEMPHIS LIGHT GAS & WATER DIVISION, A DIVISION OF THE CITY OF MEMPHIS, TENNESSEE ("MLGW") AND A&L NETWORKS-TENNESSEE, LLC ("A&L") FOR APPROVAL OF AGREEMENT BETWEEN MLGW AND A&L REGARDING JOINT OWNERSHIP OF MEMPHIS NETWORK, LLC.  
DOCKET NO. 99-00909**

Dear Mr. Waddell:

Please accept for filing an original and thirteen (13) copies of Time Warner Communications of the Mid-South's, Time Warner Telecom of the Mid-South, L.P.'s and the Tennessee Cable Telecommunications Association's Motion to Compel.

If you have any questions or concerns with regard to this filing, please do not hesitate to contact me.

Very truly yours,  
**FARRIS, MATHEWS, BRANAN  
BOBANGO & HELLEN, P.L.C.**

  
Charles B. Welch, Jr.

cc: Carolyn Marek  
Dean Deyo  
Stacey Burks

**POSTED**  
9-11-00

MEMPHIS DOWNTOWN: One Commerce Square, Suite 2000, Memphis, Tennessee 38103, (901) 259-7100 telephone, (901) 259-7150 facsimile

MEMPHIS EAST: 530 Oak Court Drive, Suite 345, Memphis, Tennessee 38117, (901) 762-0530 telephone, (901) 683-2553 facsimile

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

RECEIVED  
TENNESSEE  
REGULATORY AUTH.  
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OFFICE OF THE  
EXECUTIVE SECRETARY

**IN RE:**

**APPLICATION OF MEMPHIS NETWORKX, LLC  
FOR A CERTIFICATE OF PUBLIC CONVENIENCE  
AND NECESSITY TO PROVIDE INTRASTATE  
TELECOMMUNICATION SERVICES AND JOINT  
PETITION OF MEMPHIS LIGHT GAS & WATER  
DIVISION, A DIVISION OF THE CITY OF  
MEMPHIS, TENNESSEE ("MLGW") AND A&L  
NETWORKS-TENNESSEE, LLC ("A&L") FOR  
APPROVAL OF AGREEMENT BETWEEN MLGW  
AND A&L REGARDING JOINT OWNERSHIP OF  
MEMPHIS NETWORKX, LLC.**

**DOCKET NO. 99-00909**

**MOTION TO COMPEL FILED ON BEHALF OF TIME WARNER  
TELECOM OF THE MID-SOUTH, L.P., TIME WARNER  
COMMUNICATIONS OF THE MID-SOUTH, AND THE TENNESSEE  
CABLE TELECOMMUNICATIONS ASSOCIATION**

Time Warner Telecom of the Mid-South, L.P., Time Warner Communications of the Mid-South, and the Tennessee Cable Telecommunications Association (collectively referred to as "Intervenors") respectfully submit this Motion to Compel, as it relates to the enumerated list of documents and things. The Intervenors have previously requested these documents from the Applicant and Joint Petitioners in their Data Requests filed on March 1, 2000, in their subpoena duces tecum issued on April 20, 2000, at the depositions held on May 1, 2000, as well as at other times while parties in this docket were convened before either the directors of Tennessee Regulatory Authority ("TRA") or the pre-hearing officer.

At the hearing of this cause on July 20, 2000, Chairman Kyle ordered that the Applicant and Joint Petitioners produce requested documents. "After this

morning's discussion," stated Chairman Kyle, "I feel that General Walkup and Ms Sanders will be glad to provide [the requested document] if they ... have it. If they don't have it, I think that they will get it for us. If you don't have it now, we're requesting if you have it furnish it to him. If you don't have it, please seek to get it to [Mr. Farris]." July 20, 2000, Transcript Volume IV B, page 143, lines 2-8 (attached). Subsequently, Chairman Kyle stated that "[The Authority] ask[s] that [the documents] be submitted, or a letter telling us if they're not – if they're no where to be found." Id. at 144, lines 19-22 (attached).

As of the date of this filing, the Applicant and Joint Petitioners have neither produced the following documents nor have they filed a letter of explanation:

1. Arthur D. Little ("ADL") report referred to as "Bundled Services";
2. ADL Case No. 38213-00;
3. ADL Case No. 42220-0;
4. ADL Case No. 49577-00;
5. ADL Case No. 99-00/01;
6. ADL Case No. 49577-02/03;
7. March 1999 letter of intent entered into by MLGW and A&L Networks, LLC, regarding the telecommunications venture, which is referenced on page 40 of the October 1999 ADL report entitled "Memphis Networx Business Plan";
8. "Letter Agreement dated March 30, 1999" between A&L and MLGW which is referenced in the letter dated April 5, 1999, from Larry Thompson to Alex Lowe (Exhibit 43);

9. Seventeen (17) page study along with a two (2) page overview which is referenced in the letter dated April 17, 1999 from Alex Lowe to Joe Warnament of ADL ;

10. A&L Underground, Inc.'s 1999 financial statement;

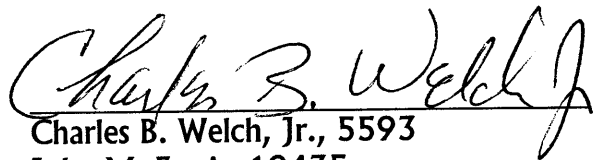
11. The contract between MASTEK and MLGW; and

12. The 1999 Tax Return for Memphis Networx, LLC.

WHEREAS, for the foregoing reasons, the Intervenor request again the production of the listed documents, as well as any document, contract, letter or other form of correspondence, payment, invoice, or any other thing that may relate to it, and that they be given a reasonable opportunity to review these materials prior to the continuation of this hearing.

Respectfully submitted,

FARRIS, MATHEWS, BRANAN,  
BOBANGO & HELLEN, P.L.C.



Charles B. Welch, Jr., 5593

John M. Farris, 10435

Attorneys for Time Warner  
Telecom of the Mid-South, L.P.,  
Time Warner Communications of  
the Mid-South, and the Tennessee  
Cable Telecommunications Association  
618 Church Street, Suite 300  
Nashville, Tennessee 37219  
(615) 726-1200

## **CERTIFICATE OF SERVICE**

I, Charles B. Welch, Jr., hereby certify that I have served a copy of the foregoing **MOTION TO COMPEL** on the parties listed below, by depositing copy of same in the U.S. Mail, postage prepaid or by hand delivery, as designated below, this the 11th day of September, 2000.

D. Billye Sanders, Esquire  
Waller Lansden et al.  
511 Union Street, Suite 2100 -Served Via Facsimile  
P.O. Box 198966  
Nashville, TN 37219-8966

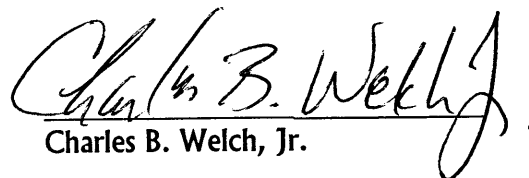
Guy M. Hicks, Esquire  
BellSouth Telecommunications, Inc.  
Suite 2101 -Served Via Facsimile  
333 Commerce Street  
Nashville, TN 37201

John Knox Walkup, Esquire  
Wyatt, Tarrant & Combs  
511 Union Street, Suite 1500 -Served Via Facsimile  
Nashville, TN 37219

R. Dale Grimes, Esquire  
Bass, Berry & Sims, P.L.C.  
2700 First American Center -Served Via Facsimile  
Nashville, TN 37238

Lee J. Bloomfield, Esquire  
Allen, Godwin, Morris,  
Laurenzi & Bloomfield, P.C. -Served Via Facsimile  
200 Jefferson Avenue, Suite 1400  
Memphis, TN 38103

Vance L. Broemel, Esquire  
Assistant Attorney General -Served Via Facsimile  
Consumer Advocate Division  
Cordell Hull Building, 2nd Floor  
425, 5th Avenue North  
Nashville, TN 37243-0500

  
Charles B. Welch, Jr.

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1 provided to me.

2 CHAIRMAN KYLE: After this morning  
3 discussion I feel that General Walkup and Ms. Sanders  
4 will be glad to provide it if they haven't if they  
5 have it. If they don't have it, I think that they  
6 will get it for us. If you don't have it now, we're  
7 requesting if you have it, furnish it to him. If you  
8 don't have it, please seek to get it.

9 MR. WALKUP: I'll be glad to  
10 supplement, but my review -- and I wanted just a  
11 minute to refresh recollection --

12 CHAIRMAN KYLE: Well, that's fine.  
13 Take a minute. We're not rushing you.

14 MR. WALKUP: Well, I have done that  
15 now. And documents to be produced dated April 20th  
16 called for reports, business plans, studies, and  
17 documents which relate to the need for additional  
18 telecommunication services in Memphis, and the Arthur  
19 D. Little, Incorporated studies, reports, including  
20 appendices.

21 CHAIRMAN KYLE: Right. That's the  
22 one we went over this morning, isn't it, General?

23 MR. WALKUP: And I don't see the wo  
24 "contracts" in there. I'm not trying to --

25 CHAIRMAN KYLE: I know. And that's

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1 fair and that's fine. And I appreciate that. I think  
2 Ms. Sanders pointed out the wording and articulation  
3 of that question this morning. And that is fair and  
4 we respect it.

5 If you have such, we want it  
6 produced. Do you have it with you? Is there any such  
7 document in your hands, Mr. Lowe? Are there any such  
8 documents in your possession at this time?

9 THE WITNESS: No, ma'am. And I've  
10 made a diligent, good faith effort to provide every  
11 document.

12 CHAIRMAN KYLE: We think so. We're  
13 not questioning, we're just questioning the  
14 on-the-table fact do we have them. Nobody is making  
15 any judgments on anybody. We've been through that  
16 this morning. We don't take things personal in here.  
17 It's very kind of you to show the respect to the Court  
18 that you have.

19 Again, we request them. We don't  
20 have them here today. We ask that they be submitted,  
21 or a letter telling us if they're not -- if they're no  
22 where to be found.

23 MR. FARRIS: Mr. Lowe --

24 CHAIRMAN KYLE: Excuse me. Did I  
25 miss an exhibit?